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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,774	08/22/2001	Ronald Gary Godsey	8231	8938
27752	7590	11/21/2008		
THE PROCTER & GAMBLE COMPANY			EXAMINER	
Global Legal Department - IP			SHAAWAT, MUSSA A	
Sycamore Building - 4th Floor				
299 East Sixth Street			ART UNIT	
CINCINNATI, OH 45202			PAPER NUMBER	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

09/935,774

**Applicant(s)**

GODSEY ET AL.

**Examiner**

MUSSA A. SHAAWAT

**Art Unit**

3627

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 12, 22 and 23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12, 22 and 23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/88)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date g

### DETAILED ACTION

1. This action is in response to amendment filed on 08/07/2008. Claims 1-11, 13-21 and 24-36 have been cancelled. Claims 12 and 22-23 have been amended. Claims 12 and 22-23 are pending examination.

### *Drawings*

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the features recited in claim 12 such as location data of a product advertising signage advertising a product comprising radio Frequency identification tags on the signage and sensors sensing said tags, and wherein the location data of the signage is generated at a first location in the store and a second location in the store, and wherein the product container tracks are generated when the signage is at the first location and when the signage is at the second location"; and "collecting point-of-sale (POS) data from the store regarding sales of the product that is the subject of the signage during the time the signage is located at the first location and when the signage is located at the second location, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet,

and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 12 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Independent claim 12 have been newly amended to now recite **"signage advertising a product comprising radio Frequency identification tags on the signage and sensors sensing said tags, and wherein the location data of the signage is generated at a first location in the store and a second location in the store"; "and wherein the product container tracks are generated when the signage is at the first location and when the signage is at the second location"**; and

**"collecting point-of-sale (POS) data from the store regarding sales of the product that is the subject of the signage during the time the signage is located at the first location and when the signage is located at the second location"**. The Applicant's specification fails to provide support for this limitation. Furthermore, this appears to be a negative limitation used to overcome the prior art.

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claim 12 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Independent claim 12 recite **"collecting point-of-sale (POS) data from the store regarding sales of the product that is the subject of the signage during the time the signage is located at the first location and when the signage is located at the second location"**. It is not clearly explained in applicant specification how one is able to collect sales data regarding sales of a product that resulted because of the location of the signage advertisement in a first and second location. Further clarification is required by the applicant.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 12 and 22-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Independent claim 12 recites "location data of a product advertising signage advertising a product comprising radio Frequency identification tags on the signage and sensors sensing said tags, and wherein the location data of the signage is generated at a first location in the store and a second location in the store", the underlined portion of the claimed limitation renders the claim indefinite. Appropriate corrections are required by the applicant.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**9. Claims 12 and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeTemple et al., US Patent No. (5,572,653) referred to hereinafter as DeTemple in view of Busche US PG. Pub. No. (2003/0055707) referred to hereinafter as Busche.**

As per claim 12, DeTemple teaches a computer-implemented method for determining an effect of changing location of product advertising signage in a store environment, comprising: generating a product container tracks through the store environment representative of a continues path followed by the product container (see

at least col. 9 lines 45-65 and col.7); using RFID tags on the products and sensors sensing said tags (see col. 9 lines 55-65); and collecting in a repository: the product container tracks of the store and the product tracks where the remote server is remotely situated from a store (see col. 8 line67-col.9 line 2).

Although DeTemple teaches creating a plurality of product container tracks (i.e. tracks the path of shopping cart, which has an RFID affixed to it) and RFID tags affixed to products, he does not expressly teach the path is representative of when a product is placed into or removed from the product container, wherein the products tracks are generated when the signage is at the first location and when the signage is at the second location; collecting point of sale data from the store regarding sales of the product that is the subject of the location of the product or item; accessing the repository, the POS data and analyzing; the product container tracks; the product tracks and the POS data to determine a relationship of the location of the products.

However, Busche teaches changing store environment before and after generating plurality of tracks and analyzing the plurality of tracks to determine a relationship between the one or more environment parameters of the store and effect (see at least Para 0058-0059 and 0078); also Busche teaches ascertaining the favorable positioning of products in a retail environment ; busche also teaches products chosen for purchase by the customer and generating a path of the customer in a store, wherein the locations of of the chosen products within the retail space are associated with the paths of the customers through the retail space to form a set of spatial relationships. It would have been obvious to one of ordinary skill in the art at the time

the invention was made to incorporate the teachings of Busche into the disclosure of DeTemple in order to allow the user to compare sales data and customer behavior in relationship with changing the product position with a store environment.

*In addition, Although DeTemple teaches generating a path of the consumer in a store using RFID tags affixed on a product container and affixed to a product and Busche teaches generating consumer path based on the locations of the chosen products by the consumer and ascertains the favorable positioning of products in a retail environment i.e. determining the best position of the signage advertisement through the path of the consumer; Both DeTemple and Busche do not teach RFID tags affixed to the signage advertising. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify DeTemple in view of Busche to include affixing RFID's to the signage advertising in order to determine the most effective positioning of the signage or advertisement in a store environment.*

Re: claim 22, DeTemple teaches a method of claim 12 wherein the product tracks are analyzed with reference to product placement data correlating particular products with physical locations in the store environment, (col.9 lines 21-45).

As per claim 23, DeTemple teaches a method of claim 12 further comprising using heat signature data to generate at least some of the first and second pluralities of product tracks, (see at least col.9 lines 2-20).

### ***Response to Arguments***

10. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.



***Contact Information***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MUSSA A. SHAAWAT whose telephone number is (571)272-2945. The examiner can normally be reached on Mon-Fri (8am-5:30pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Florian Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3627

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mussa A Shaawat/  
Examiner, Art Unit 3627  
November 13, 2008

/F. Ryan Zeender/

Supervisory Patent Examiner, Art Unit 3627